

**Notice of Allowability**

Application No.

10/025,388

Applicant(s)

SATER, GHALEB A.

Examiner

Art Unit

Bradford C. Pantuck

3731

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment 05/04/2005.
2. ☒ The allowed claim(s) is/are 3, 8, 9, 14, 17-19, 21, 35, and 37.
3. ☒ The drawings filed on 29 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Bianco on May 20, 2005.

The application has been amended as follows:

Claims 4-6, 10-13, 15, 16, 20, and 22-33 have been cancelled.

Please amend claim 37 to read as follows:

37. (amendment) A method for securing a surgical material to an anatomical structure comprising the steps of:

- (a) providing a surgical fastener, said surgical fastener comprising a proximal end and a distal end;
  - a first member comprising, a first interior face, a first exterior face, and a first engagement element projecting from said first interior face at a first location between proximal and distal ends of said first interior face;
  - a second member comprising a second interior face, a second exterior face, and a second engagement element at a location between proximal and distal ends of said second interior face, said second engagement element being complementary to and aligned with said first engagement element, wherein said first engagement element interfits into said second engagement element to position said first interior face of said first member and said second interior face of said second member in proximity to each other; and
  - an anchor projecting from said first exterior face at a second location, said second location being different from and not axially aligned with said first location of said first engagement member;
- (b) securing said surgical fastener to a surgical material;
- (c) releasably attaching a surgical implantation device to said surgical fastener;
- (d) introducing said surgical fastener to an implantation site in a patient's body; and
- (e) anchoring said anchor into said anatomical structure.

*Allowable Subject Matter*

Claims 3, 8, 9, 14, 17-19, 21, 35, and 37 (as amended herein) are allowed.

The following is an examiner's statement of reasons for allowance:

None of the prior art of record, alone or in combination, discloses a method for securing a surgical material to an anatomical structure including providing a surgical fastener having a first member with a first engagement element projecting from an interior surface, a non-axially aligned anchor projecting from its exterior surface, a second member with a second engagement element complementary with the first engagement element, wherein the fastener secures surgical material and anchors to anatomical structure, as set forth by the applicant. U.S. Patent No. 5,013,316 to Goble et al. discloses a similar fastener [see Fig. 4], but the first engagement member (31) is axially aligned with anchor (37).

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,013,316 to Goble et al.

U.S. Patent No. 5,352,229 to Goble et al.

U.S. Patent No. 6,497,707 B1 to Bowman et al.

U.S. Patent No. 4,548,202 to Duncan

U.S. Patent No. 1,425,199 to Hartley

U.S. Patent No. 6,755,840 B2 to Boucher et al.

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U.S. Patent No. 5,571,125 to Chadwick

U.S. Patent No. 6,464,706 B1 to Winters

U.S. Patent No. 6,746,450 B1 to Wall et al.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradford C. Pantuck whose telephone number is (571) 272-4701. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*BCP*

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May 29, 2005